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PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 12th September, 1991:—

BILL No. 155 OF 1991

A Bill to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1991.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title, extent and commencement.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) "Appropriate Authority" means the Appropriate Authority appointed under section 17;

(b) "Board" means the Central Supervisory Board constituted under section 7;

(c) "Genetic Counselling Centre" means an Institute, Hospital, Nursing Home or any place by whatever name called, which provides for genetic counselling to patients and for performing obstetrical or gynaecological procedures such as foetoscopy, taking samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to genetic clinic or laboratory for conducting pre-natal diagnostic test;

(d) "Genetic Clinic" means a clinic and includes a place used for the purpose of conducting the activities of Genetic Counselling Centre or Genetic Laboratory or both;

(e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Counselling Centre for pre-natal diagnostic test;

(f) "gynaecologist" means a person who possesses a post-graduate qualification in gynaecology;

(g) "medical geneticist" means a person who possesses a degree or diploma or certificate in medical genetics in the field of pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining—

(i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956; or

102 of 1956

(ii) a post graduate degree in biological sciences;

(h) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting pre-natal diagnostic test;

(i) "pre-natal diagnostic techniques" include all pre-natal diagnostic procedures and pre-natal diagnostic tests;

(j) "pre-natal diagnostic test" means any test or analysis of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register;

102 of 1956

(m) "regulations" means regulations framed by the Board under this Act.

CHAPTER II

REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES
AND GENETIC CLINICS

3. On and from the commencement of this Act,—

(1) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in, conducting activities relating to pre-natal diagnostic techniques;

(2) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall employ or cause to be employed any person who does not possess the prescribed qualifications;

(3) no medical geneticist, gynaecologist, registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.

Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.

CHAPTER III

REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. On and from commencement of this Act,—

(1) no place including a registered Genetic Counselling Centre, or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);

(2) no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:—

(i) chromosomal abnormalities;

(ii) genetic metabolic diseases;

(iii) haemoglobinopathies;

(iv) sex-linked genetic diseases;

(v) congenital anomalies;

(vi) any other abnormalities or diseases as may be specified by the Central Supervisory Board;

(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied that any of the following conditions are fulfilled, namely:—

(i) age of the pregnant woman is above thirty-five years;

(ii) the pregnant woman has undergone of two or more spontaneous abortions or foetal loss;

(iii) the pregnant woman had been exposed to potentially teratogenic drugs, radiation, infection or hazardous chemicals;

Regulation of pre-natal diagnostic techniques.

(iv) the pregnant woman has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease;

(v) any other condition as may be specified by the Central Supervisory Board;

(4) no person being a relative or the husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purpose specified in clause (2).

Written
consent
of preg-
nant
woman.

5. No person referred to under clause (2) of section 3 shall conduct the pre-natal diagnostic procedures unless he has explained all possible side and after effects of such procedures to the pregnant woman concerned and has obtained her consent in writing to undergo such procedures, in the prescribed form.

Determi-
nation
of sex
prohibi-
ted.

6. On and from the commencement of this Act,—

(a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;

(b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus.

CHAPTER IV

CENTRAL SUPERVISORY BOARD

Constitu-
tion of
Central
Supervi-
sory
Board.

7. (1) The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.

(2) The Board shall consist of—

(a) the Minister in charge of Family Welfare, who shall be the Chairman, *ex officio*;

(b) the Secretary to the Government of India in charge of Family Welfare, who shall be the Vice-Chairman, *ex officio*;

(c) two members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Woman and Child Development and of Law and Justice, *ex officio*;

(d) eight members to be appointed by the Central Government two each from amongst—

(i) eminent medical geneticists;

(ii) eminent gynaecologists;

(iii) eminent social scientists; and

(iv) representatives of women welfare organisations;

(e) two members to be appointed by the Central Government by rotation in alphabetical order to represent the States and the Union territories;

Provided that no appointment under this clause shall be made except on the recommendation of the State Government, or as the case may be, the Union territory;

(f) an officer, not below the rank of a Joint Secretary or equivalent, of the Central Government, in charge of Family Welfare, who shall be the member-secretary, *ex-officio*.

8. (1) The term of office of a member, other than an *ex officio* member, shall be three years.

Term of office of members.

(2) If a casual vacancy occurs in the office of any other member, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.

(4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. (1) The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations;

Meetings of the Board.

Provided that the Board shall meet at least once in six months.

(2) The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board.

(3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Members other than *ex officio* members shall receive such allowances, if any, from the Board as may be prescribed.

10. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Vacancies, etc., not to invalidate proceedings of the Board.

Tempo-
rary
associa-
tion of
persons
with
the
Board
for
particu-
lar
purposes.

11. (1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

Appoint-
ment of
officers
and
other
emplo-
yees of
the
Board.

12. (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.

Authenti-
cation
of orders
and
other
instru-
ments
of the
Board.

13. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in like manner in this behalf.

Disquali-
fications
for
appoint-
ment as
member.

14. A person shall be disqualified for being appointed as a member if, he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government or;

(e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member.

Eligibility
of
member
for re-
appoint-
ment.

15. Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member.

16. The Board shall have the following functions, namely:—

Functions
of the
Board.

(i) to advise the Government on policy matters relating to use of pre-natal diagnostic techniques;

(ii) to review implementation of the Act and the rules made thereunder and recommend changes in the said Act and rules to the Central Government;

(iii) to create public awareness against the practice of female foeticide;

(iv) to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.

(v) any other functions as may be prescribed under the Act.

CHAPTER V

APPROPRIATE AUTHORITY

17. (1) The Central Government shall appoint by notification in the Official Gazette one or more officers as Appropriate Authorities for each of the Union territories for the purposes of this Act.

Appropriate
Authority.

(2) The State Government shall appoint by notification in the Official Gazette one or more officers as Appropriate Authorities for the purposes of this Act.

(3) The officers appointed as Appropriate Authorities under subsection (2), shall be of and above the rank of the Joint Director of Health and Family Welfare of the State Government or of the Union territory, as the case may be.

(4) The Appropriate Authority shall have the following functions, namely:—

(i) to grant registration, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory and a Genetic Clinic;

(ii) to enforce standards prescribed for the Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics; and

(iii) to investigate complaints of breach of the provisions of this Act and the rules made thereunder and take appropriate action.

(5) (i) The Central Government or the State Government shall, as the case may be, constitute an Advisory Committee to aid and advise each Appropriate Authority in the discharge of its functions.

(ii) The Advisory Committee shall consist of two gynaecologists or medical geneticists and three eminent social workers of whom not less than one shall be from amongst representative of women's organisations.

(iii) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.

CHAPTER VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC
LABORATORIES AND GENETIC CLINICS

Registra-
tion of
Genetic
Counselling
Centres,
Genetic
Laborato-
ries or
Genetic
Clinics.

18. (1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic after the commencement of this Act, unless such Centre, Laboratory or Clinic is duly registered under this Act.

(2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or a Genetic Clinic engaged, either partly or exclusively, in conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in conducting pre-natal diagnostic techniques shall cease to conduct any such technique on the expiry of six months from the date of commencement of this Act unless such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic has applied for registration and is so registered or till such application is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

Certifi-
cate of
registra-
tion.

19. (1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder, grant a certificate of registration in the prescribed form to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.

(2) If, after the inquiry and after giving an opportunity to the applicant of being heard, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act and the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

Cancell-
ation or
suspension
of registra-
tion.

20. (1) The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or rules, it may, without prejudice to any criminal

action that it may take against such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

21. The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to—

Appeal.

(i) the Central Government, where the appeal is against the order of the Central Appropriate Authority; and

(ii) the State Government, where the appeal is against the order of the State Appropriate Authority;

in the prescribed manner.

CHAPTER VII

OFFENCES AND PENALTIES

22. (1) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of pre-natal determination of sex available at such Centre, Laboratory or Clinic.

Explanation.—In this section, "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

(2) Any person, who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.

23. (1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic or who renders his services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise and who contravenes any of the provisions of this Act or rules made thereunder, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

Offences and penalties.

(2) The name of the registered medical practitioner who has been convicted by the court under sub-section (1), shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or of a medical geneticist, gynaecologist or registered medical practitioner for conducting pre-natal diagnostic techniques on any pregnant woman (including such woman unless she was compelled to undergo such diagnostic techniques for purposes other than those specified in clause (2) of section 4, shall, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

Presump-
tion in the
case of
conduct
of pre-
natal
diagnostic
techniques.

24. Notwithstanding anything in the Indian Evidence Act, 1872, the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic technique and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section.

1 of 1872.

Penalty
for the -),
contra-
vention of
the
provisions
of the Act
or rules
for which
no specific
punishment
is provi-
ded.

25. Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Offences
by com-
panies.

26. (1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals and.

(b) "director", in relation to a firm, means a partner in the firm.

27. Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

Offence to be cognizable, non-bailable and non-compoundable.

28. (1) No court shall take cognizance of an offence under this Act except on a complaint made by—

Cognizance of offences.

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than sixty days, in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of subsection (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

CHAPTER VIII

MISCELLANEOUS

29. (1) All records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of two years or for such period as may be prescribed:

Maintenance of records,

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. (1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, such Authority or any officer authorised therein in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and examine any record, register, document, book pamphlet, advertisement or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

Power to search and seize records, etc.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act. 2 of 1974.

Protection
of action
taken in
good
faith.

31. No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorised by the Central or State Government or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Power to
make rules.

32. (1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (2) of section 3;

(ii) the form in which consent of a pregnant woman has to be obtained under section 5;

(iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of section 3;

(iv) allowances for members other than *ex officio* members admissible under sub-section (5) of section 9;

(v) the terms and conditions subject to which a person may be appointed to the Advisory Committee under clause (iii) of sub-section (5) of section 17;

(vi) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18;

(vii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (5) of section 18;

(viii) the form in which a certificate of registration shall be issued under sub-section (1) of section 19;

(ix) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19;

(x) the manner in which an appeal may be preferred under section 21;

(xi) the period up to which records, charts, etc., shall be preserved under sub-section (1) of section 29;

(xii) the manner in which the seizure of documents, records, objects, etc., shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30;

(xiii) any other matter that is required to be, or may be, prescribed.

33. The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for—

Power
to make
regula-
tions.

(a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9;

(b) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11;

(c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12;

(d) generally for the efficient conduct of the affairs of the Board.

34. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the session aforesaid, both Houses agree in making any modification in the rule or regulation as the case may be or both Houses agree that the rule or regulation as the case may be should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule or regulation.

Rules and
regula-
tions to
be laid
before
Parlia-
ment.

STATEMENT OF OBJECTS AND REASONS

It is proposed to prohibit pre-natal diagnostic techniques for determination of sex of the foetus leading to female foeticide. Such abuse of techniques is discriminatory against the female sex and affects the dignity and status of women. A legislation is required to regulate the use of such techniques and to provide deterrent punishment to stop such inhuman act.

2. The Bill, *inter alia*, provides for:—

(i) prohibition of the misuse of pre-natal diagnostic techniques for determination of sex of foetus, leading to female foeticide;

(ii) prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex;

(iii) permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders;

(iv) permitting the use of such techniques only under certain conditions by the registered institutions; and

(v) punishment for violation of the provisions of the proposed legislation.

2. The Bill, *inter alia*, provides for:—

NEW DELHI;

The 6th September, 1991.

M L. FOTEDAR.

Notes on clauses

Clause 2.—This clause seeks to define the various expressions used in the Bill.

Clause 3.—This clause provides that no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall conduct any pre-natal diagnostic technique unless it is registered under the proposed Act. It also provides that such Centre, Laboratory or Clinic shall not employ any person who does not possess the prescribed qualifications. It also provides that no medical geneticist, gynaecologist or registered medical practitioner or any other person shall conduct any pre-natal diagnostic technique at a place other than the place registered under the Act.

Clause 4.—This clause provides that no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be used for pre-natal diagnostic techniques except for the purposes mentioned in that clause and subject to the fulfilment of the conditions specified in that clause. It also provides that no person shall seek or encourage the performance of any pre-natal diagnostic technique on any pregnant woman except for the purposes mentioned in that clause.

Clause 5.—This clause provides that before the pregnant woman is subjected to pre-natal diagnostic technique the person conducting such test shall explain all the side and after effects of undertaking such tests and has obtained her consent in writing to undergo such procedures.

Clause 6.—This clause imposes an absolute prohibition on the use of pre-natal diagnostic technique including ultra-sonography for the purposes of determining the sex foetus.

Clause 7.—This clause provides for the constitution of Central Supervisory Board with the Minister in charge of Family Welfare as its Chairman.

Clause 8.—This clause provides for term of office of members appointed to the Central Supervisory Board.

Clause 9.—This clause provides for meetings of the Board and the procedure to be followed for such meetings.

Clause 10.—This clause provides that vacancies in the Board shall not invalidate proceedings of the Board.

Clause 11.—This clause provides for temporary association of persons with the Board for particular purposes.

Clause 12.—This clause provides for appointment of officers and other employees of the Board.

Clause 13.—This clause provides for authentication of orders and other instruments of the Board.

Clause 14.—This clause provides for disqualifications for appointment as members of the Board.

Clause 15.—This clause provides for eligibility of members for re-appointment.

Clause 16.—This clause provides for the functions of the Board which shall include advising the Government on policy matter relating to the use of pre-natal diagnostic technique, to review implementation of the Act and the rules made thereunder and to create public awareness against the practice of female foeticide.

Clause 17.—This clause provides for the appointment of Appropriate Authorities for discharging the functions of granting registration enforcing standards prescribed for such Centre, Laboratories and Clinics, suspension or cancellation of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and to enforce standards prescribed for such Centres, Laboratories and Clinics. It also provides for the appointment of Advisory Committees to advise the Appropriate Authorities in the discharge of their functions.

Clause 18.—This clause provides for registration of all Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics engaged in conducting pre-natal diagnostic techniques. It also provides for the period within which such clinic should be registered with the Appropriate Authorities. It also provides that no person shall open a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic after the commencement of the proposed Act unless it is registered.

Clause 19.—This clause provides for the grant of certificate of registration, the procedure for rejection of the application for such registration.

Clause 20.—This clause provides for cancellation and suspension of a certificate of registration granted to a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic.

Clause 21.—This clause provides for appeal against the order of suspension or cancellation of registration.

Clause 22.—This clause bans advertisements relating to pre-natal diagnostic techniques and also provides for the punishment for its contravention.

Clause 23.—This clause provides for offences and penalties. Any medical geneticist, gynaecologist, registered medical practitioner, any person owning the Genetic Counselling Centre, Genetic Laboratory or a Genetic Clinic or who is employed in such Centre, Laboratory or Clinic and who renders services as such Centre, Laboratory or Clinic shall be punishable with imprisonment extending up to three years and with fine extending up to 10,000 rupees for any contravention of the provisions of the proposed Act and the rules made thereunder and for subsequent conviction with imprisonment which may extend to five years and fine which may extend to fifty thousand rupees. It also provides that the name of the registered medical practitioner who has been convicted by the court shall be reported to the respective State Medical Council for removal of his name from the register of the Council for a period of two years, for the first offence and permanently for the subsequent offences. It also seeks to punish any person who seeks the aid of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, medical

geneticist gynaecologist or a registered medical practitioner for conducting pre-natal diagnostic technique at any pregnant woman, including such pregnant woman unless she was compelled for any purpose other than those specified in the proposed Act shall be punishable with imprisonment for a term which may extend to three years and fine which may extend to ten thousand rupees and for subsequent conviction with imprisonment which may extend to five years and fine which may extend to fifty thousand rupees.

Clause 24.—This clause provides that the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic technique and such person shall be liable for abetment of the offence under subsection (3) of section 23.

Clause 25.—This clause provides for penalty for contravention of the proposed Act or the rules made thereunder for which no provision has been elsewhere provided in the Act.

Clause 26.—This clause provides for punishment for offences by companies.

Clause 27.—This clause provides that every offence under this Act shall be cognizable, non-bailable and non-compoundable.

Clause 28.—This clause provides that the court shall take cognizance of an offence under the Act only on a complaint made by the Appropriate Authority or any officer authorised by the Central Government or State Government or the Appropriate Authority or by a person who has given notice of not less than sixty days to the Appropriate Authority of the alleged offence and his intention to make a complaint to the court.

Clause 29.—This clause provides for maintenance of records, charts forms, reports, etc., for a period of two years.

Clause 30.—This clause confers power upon the Appropriate Authorities to seize records and search premises of any Genetic Counselling Centre Genetic Laboratory or Genetic Clinic.

Clause 31.—This clause provides for protection of action taken in good faith.

Clause 32.—This clause confers power upon the Central Government to frame rules for carrying out the purposes of this Act.

Clause 33.—This clause confers power upon the Central Supervisory Board for framing of regulations not inconsistent with the provisions of this Act and the rules made thereunder with the previous permission of the Central Government.

Clause 34.—This clause provides for the laying down of rules and regulations before the Parliament

FINANCIAL MEMORANDUM

The Bill provides for the constitution of a Central Supervisory Board to exercise the powers conferred on, and to perform the functions assigned to it under the proposed legislation. The Central Supervisory Board, with the Minister in charge of the Ministry of the Central Government dealing with the Family Welfare, as its Chairman will include 14 members.

2. Clause 9 of the Bill provides that members other than the *ex-officio* members of the Board, shall receive such allowances, if any, as may be prescribed by the Board. The Bill also provides that at least two meetings of the Board shall be held during every year. Out of the eight experts representing different disciplines, four experts can be expected to represent government sector and the remaining four, the non-governmental sector. The financial liability that will accrue to the government will be in respect of payment of DA/TA to the four experts belonging to non-governmental sector. The estimated expenditure, covering the cost of air travel and payment of per diem to these four experts will be of the order of Rs. 41,200 for holding two meetings in a year. In respect of the remaining four experts as also the representatives of States/UTs, there will also be cash outgo. The extent of cash outgo is estimated to be of the order of Rs. 1,23,600 making a total of Rs. 1,64,800 per annum.

3. The Bill also envisages constitution of Appropriate Authorities for the UTs as well as for the States. These Appropriate Authorities shall have the powers of granting registration, suspension or cancellation of the registration. Though one of the existing officers in States and UTs is expected to take over this responsibility to start with, yet with the passage of time, he may be requiring additional secretarial assistance for his effective functioning under the Act, which will depend upon the workload which the concerned officer will have to shoulder under the Act. It is, therefore, not possible at this stage to indicate precisely how much secretarial assistance is needed and what will be the financial liability on this account. Likewise for the effective functioning of Central Supervisory Board, there may be a need for giving additional or exclusive secretarial assistance for handling this work. No precise estimates about the likely expenditure on this account can be given at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may, among other things, provide for any of the following matters, namely:—

(i) minimum qualifications of the person employed in registered Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;

(ii) the form and manner of application for registration, records to be maintained, consent of a pregnant woman to be obtained at such registered Centre, Laboratory or Clinic;

(iii) minimum equipment necessary and the standards to be maintained by the Centre, Laboratory or Clinic;

(iv) the manner in which an appeal may be filed to the Central or State Government against the order of refusal, cancellation or suspension of registration;

(v) the duration of validity, procedure of renewal and fee to be charged for registration; and

(vi) the records, charge, report and other documents to be maintained by the Genetic Counselling Centre, Laboratory or Clinic.

2. Clause 33 of the Bill empowers the Central Supervisory Board to frame regulations. Such regulations, among other things, may provide for the time and places of meetings of the Board, the procedure to be followed for the transaction of business at such meetings, the number of members which shall form a quorum and the conditions of service of the employees of the Board.

3. As the matters in respect of which rules and regulations may be made are matters of procedure or administrative detail, the delegation of legislative power is of a normal character.

BILL No. 156 OF 1991

A Bill to cancel certain notifications calling for general elections in relation to the State of Punjab.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Cancellation of General Elections in Punjab Act, 1991.

Cancellation
of
certain
Notifica-
tions in
relation
to Punjab.

2. The notification No. S.O. 268(E), dated the 19th April, 1991 issued by the President under sub-section (2) of section 14 of the Representation of the People Act, 1951 in so far as it relates to the State of Punjab and the notification No. Elec-91-R: 4100, dated the 19th April, 1991 issued by the Governor of the State of Punjab under sub-section (2) of section 15 of the said Act shall, on the commencement of this Act, stand cancelled and upon such cancellation—

43 of 1951.

(a) every deposit made under section 34 of the said Act in relation to general elections called by the said notifications shall be returned to the person making it or his legal representative; and

(b) all the proceedings with reference to the said elections shall be commenced a new in all respects as if for new elections under the said Act.

STATEMENT OF OBJECTS AND REASONS

Elections to the Tenth Lok Sabha and to certain State Assemblies had been announced in April last. However, the Election Commission, after taking into account all relevant facts and the prevailing circumstances in the State of Punjab and having been satisfied that it was not possible to hold fair and free poll in that State on the scheduled date, namely, the 22nd June, 1991 (which itself was an extended date), extended the time for the completion of elections in that State till the 30th September of this year.

2. The terrorist activities in that State are on the increase and after the announcement of elections large scale killings and massacre of innocent people had taken place. Many candidates have also been murdered necessitating the "countermanning" of elections in various constituencies in the State. In view of this, long term security arrangements for the safety of candidates contesting the elections have become imperative. It is becoming extremely difficult to make such arrangements for a long period by deploying para-military forces who are already under great strain as they had been sent to that State after they had completed strenuous election duty in other States. In view of all the aforesaid circumstances and difficulties and also to guard against further loss of lives of the candidates and other innocent persons, it has become necessary to cancel the notifications calling for general elections in the State of Punjab for the present. Elections shall be held as soon as proper arrangements are made.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 6th September, 1991.

K. VIJAYA BHASKARA REDDY.

K. C. RASTOGI,
Secretary-General.

